

UNITED STATES DISTRICT COURT
DISTRICT OF PUERTO RICO

1 ANGEL RIOS GERENA, MARICELA
2 OCASIO, AND THE CONJUGAL
3 PARTNERSHIP FORMED BY THEM,

4 Plaintiffs,

5 v.

6 OSRAM SYLVANIA P.R. CORP.;
7 RUSSELL L. UNDERWOOD,

8 Defendants.
9

Civil No. 98-1428 (JAF)

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U.S. DISTRICT COURT
SAN JUAN, P.R.

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11 ORDER

12 We entered an order on July 23, 1999, dismissing Plaintiffs
13 Angel Ríos-Gerena, Maricela Ocasio, and their conjugal partnership's
14 federal claim under the Age Discrimination in Employment Act (ADEA),
15 as amended, 29 U.S.C. §§ 621-634. The order also dismissed without
16 prejudice Plaintiffs' state law claims under the laws of the
17 Commonwealth of Puerto Rico, Act No. 100 (Law 100), of June 30, 1959,
18 as amended, 29 L.P.R.A. § 146, and Act No. 80, of May 30, 1976, 29
19 L.P.R.A. § 185(a). Defendant, Osram Sylvania P.R. Corp., has
20 subsequently filed a motion to amend this court's order and dismiss
21 the state law claims with prejudice pursuant to Fed. R. Civ.
22 P. 59(e).
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24 It is within this court's discretion to dismiss pendent state
25 law claims without prejudice after the foundational federal claim has
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1 been dismissed. See 28 U.S.C. § 1367(c); see also Bowdoin Const.
2 Corp. v. Rhode Island Hosp. Trust Nat. Bank, N.A., 869 F.Supp. 1004,
3 1011 (D.Mass 1994) (pursuant to 28 U.S.C. § 1367(c), where the
4 supporting federal claims have been dismissed, the court has
5 discretion to dismiss the pendent state claims as well, without
6 prejudice to a future state court action).

7 We have reviewed Defendant's motion to reconsider our dismissal
8 of Plaintiffs' state law claims without prejudice and determine that
9 Defendant's motion is without merit. Upon reviewing the record, we
10 find that we properly exercised our discretion to dismiss the state
11 law claims without prejudice. It is easier for a plaintiff to
12 establish its burden of proof under Law No. 100 than under the ADEA.
13 See Cardona Jimenez v. Bancomercio De Puerto Rico, 174 F.3d 36, 42
14 (1st Cir. 1999). Under Law No. 100, a plaintiff has two requirements
15 in order to establish a prima facie case, whereas under the ADEA the
16 plaintiff has to meet four requirements in order to establish a prima
17 facie case. Id. Furthermore, there is an important difference
18 involving the burden shifting. Id. Although the plaintiff in an
19 ADEA case always bears the burden of proof, Law No. 100 temporarily
20 places that burden on the employer and, thus, is significantly more
21 favorable to the plaintiff than the ADEA. Id. See also Ibañez
22 Benítez v. Molinos de Puerto Rico, Inc., 114 P.R. Dec. 42, 52, 1983
23 WL 204221 (1983). In light of the different requirements to
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1 establish a prima facie case and the different burden shifting, we
2 find that it was proper to dismiss the state law claims without
3 prejudice. Therefore, Defendant's motion to amend the order and
4 dismiss Plaintiffs' state law claim with prejudice is **DENIED**. This
5 order disposes of Docket Documents Nos. 23 and 24.

6 **IT IS SO ORDERED.**

7 San Juan, Puerto Rico, this

15th day of November, 1999.

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10 JOSE ANTONIO FUSTE
11 U. S. District Judge
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